

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for
Reconsideration:

DAVOUD YEDIDSION, M.D.

Physician's & Surgeon's
Certificate No. A 38412

Petitioner

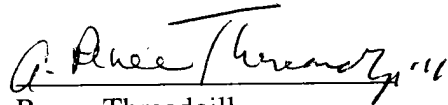
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ORDER DENYING PETITION FOR RECONSIDERATION

The Petition for Reconsideration filed by Davoud Yedidsion, M.D., in the decision in the above-entitled matter, having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on May 22, 2006.

IT IS SO ORDERED: May 23, 2006


Renee Threadgill
Interim Chief of Enforcement
Medical Board of California

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for Penalty)
Relief of:)**

File No: 20-2003-153373

OAH No: L2006010861

**DAVOUD YEDIDSION, M.D.)
aka DAVID YEDIDSION, M.D.)**

**Physician's and Surgeon's)
Certificate No. A-38412)**

Petitioner.)

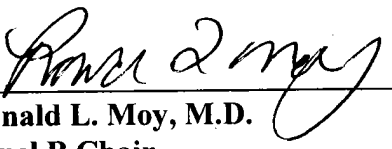
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 22, 2006.

DATED April 21, 2006.

**DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA**


**Ronald L. Moy, M.D.
Panel B Chair
Division of Medical Quality**

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of Petition for Penalty Relief
of:

Case No. 20-2003-153373

DAVOUD S. YEDIDSION, M.D.
aka DAVID YEDIDSION, M.D.
10600 Wilshire Blvd. Apt. 313
P. O. Box 24038
Los Angeles, CA 90024

OAH No. L2006010861

Petitioner.

PROPOSED DECISION

On February 22, 2006, in San Diego, California, Greer D. Knopf, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Heidi Weisbaum, Deputy Attorney General, represented the Attorney General and the people of California.

Davoud S. Yedidsion, petitioner, appeared and represented himself at the hearing.

The matter was submitted on February 22, 2006.

FACTUAL FINDINGS

1. Petitioner Davoud S. Yedidsion ("petitioner") submitted a Petition for Penalty Relief dated September 3, 2005 to the Medical Board of California ("the Board"). Petitioner seeks early termination of his probation.

2. Petitioner attached numerous documents to his petition, including: Petitioner's narrative statement; some records from the United States District Court; reference letters from professional colleagues and friends; continuing education information; documents pertaining to a prior petition for penalty relief; and documents pertaining to the original disciplinary action taken by the Board against petitioner. In addition, the Board submitted a

Probation Unit Report re the Petition for Modification of Probation with numerous attachments. The matter was set for hearing and the proceeding herein followed.

3. The Board originally issued petitioner's license to practice medicine on May 10, 1982. On May 15, 2000, the Board filed an accusation against petitioner as a result of petitioner's indictment for multiple violations of federal law. On June 5, 1998, petitioner was convicted of ten counts of violations of Title 18, United States Code, sections 1341, and 1001 for defrauding the Medicare Program by knowingly submitting false billings either for services not actually rendered or for services inflated beyond what services were actually rendered. Petitioner's false billings resulted in submission of approximately \$700,000.00 in fraudulent bills to Medicare for payment. Petitioner was sentenced to two years imprisonment and ordered to pay \$50,000.00 in fines and \$310,000.00 in restitution. Petitioner was released from prison and placed on two years of supervised release until January 25, 2002.

4. As a result of petitioner's criminal conviction, the Board revoked petitioner's license to practice medicine pursuant to Business and Professions Code section 2236 (felony convictions involving moral turpitude and substantially related to the qualifications, functions and duties of a licensee), 2234, subdivision (e) (unprofessional conduct-dishonest and corrupt acts), 2261 (knowingly making or signing false Medicare claims), and 810 (false/fraudulent insurance claims) after an evidentiary hearing was held on the charges. Petitioner's license was revoked as of July 5, 2000.

5. On April 1, 2004, petitioner submitted a Petition for Reinstatement to the Board seeking to have his license to practice medicine reinstated following revocation. After a hearing on the petition for reinstatement, Administrative Law Judge William O. Hoover ("ALJ Hoover") issued a proposed decision dated May 15, 2000 ("the May 2000 PD") granting the petition. The granting of the petition was immediately revoked and said revocation was stayed for five years subject to terms and conditions of probation. By Decision dated August 5, 2004 ("the Reinstatement Decision"), the Board adopted the proposed decision of ALJ Hoover and it became effective on September 7, 2004.

6. The Reinstatement Decision imposed numerous terms and conditions of probation including, among others, Condition 11 which reads as follows:

"11. Petitioner shall take and pass an oral clinical exam or written exam in her [sic] area of specialty to be administered by the Division, or its designee. This examination shall be taken within 60 days after the effective date of this decision. If petitioner fails the first examination, petitioner shall be allowed to take and pass a second examination, which may consist of a written as well as an oral examination. The waiting period between the first and second examinations shall be at least three months. If petitioner fails to pass the first and second examinations, petitioner may take a third and final examination after waiting a period of one year. Failure to pass the oral clinical examination within 18 months after the effective date of this decision shall constitute a violation of probation. Petitioner shall pay the costs of all examinations. For purposes of this condition, if petitioner is required to take and pass

a written exam it shall be either the Special Purpose Examination (SPEX) or equivalent examination as determined by the Division or its designee.

Petitioner shall not practice medicine until petitioner has passed the required examination and has been so notified by the Division or its designee in writing. This prohibition shall not bar petitioner from practicing in a clinical training program approved by the Division, or its designee. Petitioner's practice of medicine shall be restricted only to that which is required by the approved training program."

7. On November 23, 2004, petitioner took his first oral clinical exam pursuant to Condition 11 of his probation. He failed that exam. On February 28, 2005, petitioner took his second oral clinical exam pursuant to Condition 11 of his probation. He failed that exam as well. Under the terms of Condition 11 of his probation, petitioner must take and pass a third oral clinical exam by March 2006 or he will be in violation of his probation.

8. Petitioner now seeks modification of his probation that was imposed by the Reinstatement Decision. Petitioner seeks to have Condition 11 of his probation eliminated. In its place, petitioner requests that he be allowed to complete the PACE program in lieu of passing the oral clinical exam. Petitioner maintains that it was illegal for the Board to order him to take another oral clinical exam in its Reinstatement Decision. However, there is nothing in the record to indicate that petitioner ever requested reconsideration or appealed the original order contained in the Reinstatement Decision. That would have been the appropriate method to challenge the terms of probation that were ordered in the Reinstatement Decision. In fact, petitioner initially accepted the Reinstatement Decision and has attempted to comply with its terms. It was only when petitioner was unable to pass the oral clinical exam that he began to object to having to take the exam at all. Petitioner also claims that the oral clinical examiners were biased against him because of the crimes petitioner committed and that the examiners did not have the appropriate level of expertise in his specific field of practice. Therefore, he argues that he should not be required to comply with this requirement of probation. However, petitioner failed to submit any evidence or law to support his allegations. He is required to comply with all the terms and conditions of his probation, not just the ones with which he agrees or likes.

9. Petitioner submitted a narrative statement with his petition and testified at the hearing. Petitioner indicated that he understands the Board has the right to license and discipline physicians where appropriate. He also indicated he understands that a physician who has been disciplined stands in a different position than those physicians that have not been disciplined. However, he now does not believe the Board should be able to require that he take the oral clinical examination before allowing him to practice medicine again. He practiced medicine in this state for 16 years before his criminal conviction in 1998. When he sought reinstatement, he had not practiced medicine for nearly six years. It was therefore reasonable for the Reinstatement Decision to contain a requirement that petitioner take and pass the clinical oral exam before he be allowed to resume the practice of medicine. Petitioner claims he now wants to take the PACE program. However, petitioner's testimony at the hearing indicates he is only willing to complete a portion of the PACE program and not the entire program. Nevertheless, petitioner may certainly enroll in PACE, but not as a

substitute for the previously ordered exam requirement of his probation. Petitioner has failed to establish that his petition for penalty relief should be granted.

10. At the hearing, the Attorney General did not take a position on the granting of this petition.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2307 provides in part:

"... the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability."

2. Business and Professions Code section 2229 provides in part:

"(a) Protection of the public shall be the highest priority for the Division of Medical Quality . . . and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority."

3. Business and Professions code section 2227 provides that a licensee who is subjected to discipline may have his license revoked or placed on probation. A licensee who has been disciplined by the Board may "[h]ave any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper." (Bus. & Prof. Code § 2227, subd. (a)(5).) In addition, Business and Professions Code section 2228 provides in pertinent part:

"The authority of the board or a division of the board ...to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

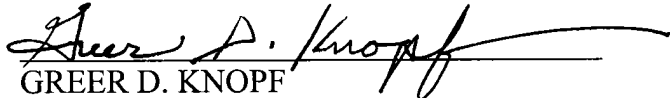
(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or division or the administrative law judge."

4. Cause was not established to grant the petition for penalty relief as requested, as set forth in Findings 2-10.

ORDER

The petition of Davoud Yedidsion for penalty relief is hereby denied.

DATED: 3-22-06


GREER D. KNOFF
Administrative Law Judge
Office of Administrative Hearings